

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)

Deans Cablevision Inc.)

Owner of Antenna Structure Registration)

Number 1223423 at Conception Junction, Missouri)

Lamoni, Iowa)

File Number EB-02-KC-393

NAL/Acct.No. 200232560010

FRN 0006149496

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: June 26, 2002

By the Enforcement Bureau, Kansas City Office:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture*, we find that Deans Cablevision Inc., owner of antenna structure number 1223423, willfully violated Section 17.50 of the Commission's Rules¹ by failing to clean or repaint the antenna structure as often as necessary to maintain good visibility. We conclude that Deans Cablevision Inc. is apparently liable for a forfeiture in the amount of ten thousand dollars (\$10,000).

II. BACKGROUND

2. On May 30, 2002, an agent of the Commission's Kansas City Field Office inspected Deans Cablevision Inc. antenna structure with Antenna Structure Registration number 1223423 located in Conception Junction, Missouri on South Highway 169. The bands of the antenna structure were not clearly visible due to faded and rusted paint.

III. DISCUSSION

3. Section 17.50 of the Commission's Rules states that "[a]ntenna structures requiring painting under this part shall be cleaned or repainted as often as necessary to maintain good visibility." On May 30, 2002, Deans Cablevision Inc. failed to maintain good visibility of its antenna structure number 1223423 because the required structure markings were faded and rusted.

4. Based on the evidence before us, we find that on May 30, 2002, Deans Cablevision Inc. willfully² violated Section 17.50 of the Commission's Rules by failing to maintain good visibility of its

¹ 47 C.F.R. 17.50.

² Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies equally to Section 503(b) of the Act, provides that "[t]he term 'willful,' when used with reference to the commission or omission of any act, means the conscious

antenna structure.

5. Pursuant to Section 1.80(b)(4) of the Commission's Rules, the base forfeiture amount for the violation(s) cited in this notice is \$10,000.³ Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"), requires us to take into account "... the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require."⁴ Considering the entire record and applying the statutory factors listed above, this case warrants a \$10,000 forfeiture.

IV. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁵ and Sections 0.111, 0.311 and 1.80 of the Commission's Rules,⁶ Deans Cablevision Inc is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of ten thousand dollars (\$10,000) for willful violation of Section 17.50 of the Commission's Rules.

7. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules, within thirty days of the release date of this *Notice Of Apparent Liability*, Deans Cablevision Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

8. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment must include the FRN and NAL/Acct. No. referenced in the letterhead above.

9. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street, SW, Washington, DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division, and MUST INCLUDE THE NAL/Acct. No. and FRN referenced in the letterhead above.

10. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

³ 47 C.F.R. § 1.80(b)(4).

⁴ 47 U.S.C. § 503 (b)(2)(D).

⁵ 47 U.S.C. § 503(b).

⁶ 47 C.F.R. §§ 0.111, 0.311, 1.80.

11. Requests for payment of the full amount of this *Notice of Apparent Liability* under an installment plan should be sent to: Federal Communications Commission, Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁷

12. IT IS FURTHER ORDERED THAT a copy of this *Notice Of Apparent Liability* shall be sent by regular mail and Certified Mail Return Receipt Requested to Deans Cablevision Inc. at 115 South Linden, Lamoni, Iowa 50140.

FEDERAL COMMUNICATIONS COMMISSION

Robert C. McKinney
District Director, Enforcement Bureau

⁷ See 47 C.F.R. § 1.1914.